

AGREEMENT

THIS AGREEMENT, made by and between The City of Seattle, a municipal corporation of the State of Washington, hereinafter called the "City", and the State of Washington, hereinafter called the "State",
WITNESSETH:

WHEREAS, the City has constructed three dams on the main Skagit River above Newhalem, Washington, for the production of electric energy, and the construction of said dams and the artificial fluctuation in the flow of the Skagit River caused by the operation thereof has resulted in destruction or damage to salmon, steelhead and cut-throat trout owned by the State, and particularly in the area between Gorge Dam and Marblemount, Washington, the exact amount of which is difficult of determination and for which the State has made claim to the City; and

WHEREAS, the parties hereto have both investigated the matter and have agreed upon compensation for such damage and upon measures which will eliminate such damage in the future; Now, Therefore, in consideration of the mutual covenants and agreements hereinafter specified it is agreed between the parties hereto as follows:

1. The City agrees to furnish funds to the extent of Fifty-Four Thousand Nine Hundred Fifty Dollars (\$54,950.00) for the construction of rearing ponds and related water supply systems as a part of the facilities of the Skagit Hatchery to be built by the State near Marblemount, Washington, such facilities to permit rearing of salmon to the capacity of five ponds and steelhead to the capacity of two ponds. Said funds shall be made available to the State when requested in writing by the Director of

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Fisheries. The payment of said sum shall be and is accepted by the State full satisfaction of any and all claims, past, present or future for damages on account of the construction and operation of the City's three dams on the Skagit River except as hereinafter set forth in Paragraph 2 hereof.

2. The City agrees that the flow of water past the Gorge Dam shall at no time be less than the lower of either 1,000 cubic feet per second or the natural flow which would occur if there were no dams in the Skagit River. For each and every day that the flow of water shall be less than the minimum flow hereinbefore specified the City agrees to pay a penalty of \$70.00 per day, and for each and every day that said flow shall be less than 230 cubic feet per second a penalty of \$230.00 per day; provided

- a. That the City shall be permitted during the month of December of each year to lower the flow below the minimum flow hereinbefore specified without penalty upon securing a written permit from the Director of Fisheries so to do, said permit stating thereon the minimum amount of water to be passed for any specified period of time during said month; and
- b. No penalties shall accrue or be paid during the months of February and March in the years 1947, 1948 and 1949 on account of the flow being under the flow hereinbefore specified, as the State agrees that maintenance of the flow of water in excess of the specified minimum may be impossible during such periods.

For the purpose of determining penalties as hereinabove provided, the stream flow shall be taken from flow records at the Newhalem recording station as compiled by the United States Geological Survey.

The Director of Fisheries of the State, not later than February 15th of any year, shall furnish the City with an itemized statement of

the penalties due for the preceding seasonal water year ending September 30th, and upon receipt of such statement the City will, on or before March 31st following, pay to the State through the Director of Fisheries the amount found to be due. -- --

3. This agreement may be reviewed at any time on request of either party and may be changed with the approval of the Federal Power Commission.

IN WITNESS WHEREOF the City has caused this agreement to be executed by its Superintendent of Lighting thereunto duly authorized, pursuant to Ordinance No. 75024, and the State has caused same to be executed by its Director of Fisheries and Director of Game respectively this 1st day of May, 1947.

THE CITY OF SEATTLE

By E. R. Hoffman
Superintendent of Lighting

STATE OF WASHINGTON E. R. HOFFMAN
Superintendent

By Mike Moore
Director of Fisheries

By Don W. Clark
Director of Game